

**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)**  
**Act 451 of 1994**

PART 85  
FERTILIZERS

**324.8501 Definitions.**

Sec. 8501. As used in this part:

(a) "Adulterated product" means a product which contains any deleterious or harmful substance in sufficient amount to render it injurious to beneficial plant life, animals, humans, aquatic life, soil or water when applied in accordance with directions for use on the label, or if adequate warning statements or directions for use which may be necessary to protect plant life, animals, humans, aquatic life, soil or water are not shown on the label.

(b) "Aquifer" means a geologic formation, group of formations, or part of a formation capable of yielding a significant amount of groundwater to wells or springs.

(c) "Aquifer sensitivity" means a hydrogeologic function representing the inherent abilities of materials surrounding the aquifer to attenuate the movement of nitrogen fertilizers into that aquifer.

(d) "Aquifer sensitivity region" means an area in which aquifer sensitivity estimations are sufficiently uniform to warrant their classification as a unit.

(e) "Brand or product name" means a term, design, or trademark used in connection with 1 or more grades of fertilizer.

(f) "Bulk fertilizer" means fertilizer distributed in a nonpackaged form.

(g) "Custom mixed fertilizer" means a mixed fertilizer formulated according to individual specifications furnished by the consumer before mixing.

(h) "Department" means the department of agriculture.

(i) "Director" means the director of the department of agriculture or his or her designee.

(j) "Distribute" means to import, consign, sell, barter, offer for sale, solicit orders for sale, or otherwise supply fertilizer for sale or use in this state.

(k) "Fertilizer" means a substance containing 1 or more recognized plant nutrients, which substance is used for its plant nutrient content and which is designed for use, or claimed to have value, in promoting plant growth. Fertilizer does not include unmanipulated animal and vegetable manures, marl, lime, limestone, wood ashes, and other materials exempted by rules promulgated under this part.

(l) "Fertilizer material" means any substance containing any recognized plant nutrient, which is used as a fertilizer or for compounding mixed fertilizers.

(m) "Grade" means the percentage guarantee of total nitrogen, available phosphorus, or available phosphoric acid,  $P_2O_5$ , and soluble potassium, or soluble potash,  $K_2O$ , of a fertilizer and shall be stated in the same order as listed in this subdivision. Indication of grade does not apply to peat or peat moss or soil conditioners.

(n) "Groundwater" means underground water within the zone of saturation.

(o) "Groundwater stewardship practices" means any of a set of voluntary practices adopted by the commission of agriculture pursuant to part 87, designed to protect groundwater from contamination by fertilizers.

(p) "Guaranteed analysis" means the minimum percentage of each plant nutrient guaranteed or claimed to be present.

(q) "Label" means any written, printed, or graphic matter on or attached to packaged fertilizer or used to identify fertilizer distributed in bulk or held in bulk storage.

(r) "Labeling" means all labels and other written, printed, or graphic matter upon or accompanying fertilizer at any time, and includes advertising or sales literature.

(s) "Manufacture" means to process, granulate, compound, produce, mix, blend, or alter the composition of fertilizer or fertilizer materials.

(t) "Maximum contaminant level" means that term as it is defined in title XIV of the public health service act, chapter 373, 88 Stat. 1660, and the regulations promulgated under that act.

(u) "Mixed fertilizer" means a fertilizer containing any combination or mixture of fertilizer materials designed for use or claimed to have value in promoting plant growth, including mixtures of fertilizer and pesticide.

(v) "Nitrogen fertilizer" means a fertilizer that contains nitrogen as a component.

(w) "Official sample" means a sample of fertilizer taken by a representative of the department of agriculture in accordance with acceptable methods.

(x) "Order" means a cease and desist order issued under section 8511.

(y) "Package" or "packaged" means any type of product regulated by this part that is distributed in individual containers with a capacity not exceeding 55 gallons for liquids and not exceeding 200 pounds for solids.

(z) "Percent" and "percentage" mean the percentage by weight.

(aa) "Soil conditioner" means a substance that is used or intended for use solely for the improvement of the physical nature of soil and for which no claims are made for plant nutrients content. Soil conditioner does not include guaranteed plant nutrients, hormones, bacterial inoculants, and products used in directly influencing or controlling plant growth.

(bb) "Specialty fertilizer" means any fertilizer distributed primarily for nonfarm use, such as use in connection with home, gardens, lawns, shrubbery, flowers, golf courses, parks, and cemeteries, and may include fertilizers used for research or experimental purposes.

(cc) "Ton" means a net ton of 2,000 pounds avoirdupois.

(dd) "Use" means the loading, mixing, applying, storing, transporting, or disposing of a fertilizer.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995;—Am. 1998, Act 276, Imd. Eff. July 27, 1998.

**Popular name:** Act 451

### **324.8502 Label; invoice.**

Sec. 8502. (1) A packaged fertilizer distributed in this state, including packaged custom mixed fertilizer and soil conditioner, shall have placed on or affixed to the package or container a label setting forth in clearly legible and conspicuous form all of the following:

(a) The net weight of the contents of the package, except that peat or peat moss shall be designated by volume.

(b) Brand or product name.

(c) Name and address of the licensed manufacturer or distributor.

(d) Grade. This subdivision does not apply to peat or peat moss or material sold as a soil conditioner.

(e) Guaranteed analysis. This subdivision does not apply to peat or peat moss or material sold as a soil conditioner.

(2) A fertilizer distributed in this state in bulk shall be accompanied by a written or printed invoice or statement to be furnished to the purchaser at the time of delivery containing in clearly legible and conspicuous form all of the following information:

(a) Name and address of the licensed manufacturer or distributor.

(b) Name and address of purchaser.

(c) Date of sale.

(d) Brand or product name.

(e) Grade.

(f) Guaranteed analysis.

(g) Net weight.

(3) Fertilizer in bulk storage shall be identified with a label attached to the storage bin or container giving the name and address of the licensed manufacturer or distributor and the name and grade of the product.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

### **324.8503 Order and form of guaranteed analysis; requirements for sale of mixed fertilizer.**

Sec. 8503. (1) The guaranteed analysis for the primary nutrients of nitrogen, available phosphoric acid, P<sub>2</sub>O<sub>5</sub>, and soluble potash, K<sub>2</sub>O, shall be expressed as whole numbers on the label in the following order and form:

Total nitrogen, N.	_____ %
Available phosphoric acid, P <sub>2</sub> O <sub>5</sub> .	_____ %
Soluble potash, K <sub>2</sub> O.	_____ %

(2) A mixed fertilizer may not be sold if the sum of the guarantees for the nitrogen, available phosphoric acid, and soluble potash totals less than 20%, except specialty fertilizers permitted to be sold by product registration issued by the department.

(3) If elemental guarantees are required by rules, as authorized by section 8516, the guaranteed analysis shall be expressed in terms of percentage of available phosphorus, P, and soluble potassium, K.

(4) Additional plant nutrients, other than nitrogen, phosphorus, and potassium, claimed to be present in any form or manner shall be guaranteed on the elemental basis, at levels not less than those established by rules. The materials shall be approved by the director of the department, by and with the advice of the director of the Michigan agricultural experiment station.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

#### **324.8504 License to manufacture or distribute fertilizer; fee; application; notice of additional distribution points; exception; expiration.**

Sec. 8504. (1) A person shall not manufacture or distribute fertilizer in this state, except specialty fertilizer and soil conditioners, until the appropriate groundwater protection fee provided in section 8715 has been submitted, and except as authorized by a license to manufacture or distribute issued by the department pursuant to part 13. An application for a license shall be accompanied by a payment of a fee of \$100.00 for each of the following:

(a) Each fixed location at which fertilizer is manufactured in this state.  
(b) Each mobile unit used to manufacture fertilizer in this state.  
(c) Each location out of the state that applies labeling showing out-of-state origin of fertilizer distributed in this state to nonlicensees.

(2) An application for a license to manufacture or distribute fertilizer shall include:

(a) The name and address of the applicant.  
(b) The name and address of each bulk distribution point in the state not licensed for fertilizer manufacture or distribution. The name and address shown on the license shall be shown on all labels, pertinent invoices, and bulk storage for fertilizers distributed by the licensee in this state.

(3) The licensee shall inform the director in writing of additional distribution points established during the period of the license.

(4) A distributor is not required to obtain a license if the distributor is selling fertilizer of a distributor or a manufacturer licensed under this part.

(5) All licenses to manufacture or distribute fertilizer expire on December 31 of each year.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995;—Am. 2004, Act 325, Imd. Eff. Sept. 10, 2004.

**Popular name:** Act 451

#### **324.8505 Distribution of specialty fertilizer or soil conditioner; registration; application; fee; labels to accompany application; copy of registration; expiration.**

Sec. 8505. A person shall not distribute a specialty fertilizer or soil conditioner until it is registered by the manufacturer or distributor with the department and the appropriate groundwater protection fees provided for in section 8715 have been submitted. An application in duplicate listing each brand and product name of each grade of specialty fertilizer or soil conditioner shall be made on a form furnished by the director and shall be accompanied with a fee of \$25.00 for each brand and product name of each grade. Labels for each brand and product name of each grade shall accompany the application. Upon approval of an application by the director, a copy of the registration shall be furnished to the applicant. All registrations expire on December 31 of each year.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

#### **324.8506 Inspection fee; tonnage reports as basis of payment; waiver; penalty; unpaid fees and penalties as basis of judgment; records; responsibility for reporting tonnage and paying inspection fee.**

Sec. 8506. (1) An inspection fee of 10 cents per ton shall be paid to the department for all fertilizers or soil conditioners sold or distributed in this state. For peat or peat moss, the inspection fee shall be 2 cents per cubic yard. This fee shall not apply to registered specialty fertilizers or soil conditioners sold or distributed only in packages of 10 pounds or less.

(2) Payment of the inspection fee shall be made on the basis of tonnage reports setting forth the number of tons of each grade of fertilizer and soil conditioner and the number of cubic yards of peat or peat moss sold or distributed in this state. The reports shall cover the periods of the year and be made in a manner specified by the director of the department in rules, and shall be filed with the department not later than 30 days after the close of each period. The time may be extended for cause for an additional 15 days only on written request to, and approval by, the department. Remittance to cover the inspection fee shall accompany each tonnage report. Payments due of less than \$1.00, or refunds resulting from overpayment of less than \$1.00, are waived. A

penalty of 10% of the amount due, with a minimum of \$10.00, shall be assessed against the licensee for all amounts not paid when due. Unpaid fees and penalties constitute a debt and become the basis of a judgment against the licensee. Records upon which the statement of tonnage is based are subject to department audit.

(3) When more than 1 person is involved in the distribution of fertilizer or soil conditioners, the last person who is licensed or has the fertilizer or soil conditioner registered and who distributes to a nonlicensee is responsible for reporting the tonnage and paying the inspection fee.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

#### **324.8507 Records; disclosure of information.**

Sec. 8507. (1) Each licensee shall maintain for a period of 3 years a record of quantities and grades of fertilizer and soil conditioner sold or distributed by the licensee and shall make the records available for inspection and audit on request of the department. Each vendor of fertilizer and soil conditioner shall maintain for a period of 3 years shipping data such as invoices and freight bills pertaining to fertilizer and soil conditioner that establish date and origin of the shipment, and shall make the records available for inspection and audit on request of the department.

(2) Tonnage payments, tonnage reports, or other information furnished or obtained under this part shall not be disclosed in a way that will divulge the business operations of any one person.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

#### **324.8508 Construction and application of part.**

Sec. 8508. (1) This part does not require the payment of inspection fees for sales or exchanges of fertilizers or soil conditioners between manufacturers who mix fertilizer or soil conditioner materials for sale, or prevent the free and unrestricted shipment of fertilizers or soil conditioners for further processing to manufacturers licensed under this part.

(2) This part does not apply to a carrier in respect to a fertilizer or soil conditioner delivered or consigned to it by others for transportation in the ordinary course of its business as a carrier.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

#### **324.8509 Prohibitions.**

Sec. 8509. A person shall not do any of the following:

(a) Sell or distribute fertilizer or soil conditioner in violation of the requirements of this part or the rules promulgated under this part.

(b) Make a guarantee, claim, or representation in connection with the sale of fertilizer or soil conditioner, or in their labeling, which is false, deceptive, or misleading.

(c) Manufacture or distribute a fertilizer or soil conditioner without a license as required by this part or distribute a specialty fertilizer or soil conditioner unless registered as required by this part.

(d) Make a false or misleading statement in an application for a license or in an inspection fee or statistical report or in any other statement or report filed with the department pursuant to this part.

(e) Attach or cause to be attached an analysis stating that a fertilizer contains a higher percentage of a plant nutrient than it in fact contains.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

#### **324.8510 Inspecting, sampling, and analyzing fertilizer and soil conditioners; access to premises; stopping conveyances; submission of information to department; confidentiality.**

Sec. 8510. (1) The department shall inspect, sample, and analyze fertilizers and soil conditioners distributed within this state at a time and place and to the extent necessary to determine compliance with this part.

(2) Department representatives and inspectors shall have free access during regular business hours to all premises where fertilizers or soil conditioners are manufactured, sold, or stored, and to all trucks or other vehicles and vessels used in the transportation of a fertilizer or soil conditioner in this state, to determine compliance with this part. Department representatives and inspectors may stop any conveyance transporting fertilizer or soil conditioner for the purpose of inspecting and sampling the products and examining their labeling.

(3) A manufacturer or distributor of fertilizer or soil conditioner shall submit to the department, upon request, product samples, copies of labeling, or any other data or information that the department may request concerning composition and claims and representations made for fertilizers and soil conditioners manufactured or distributed by the manufacturer or distributor within this state.

(4) The director may, upon reasonable notice, require a person to furnish any information relating to the identification, nature, and quantity of fertilizers that are or have been used on a particular site and to current or past practices that may have affected groundwater quality. Information required under this subsection is confidential business information and is not subject to the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**324.8511 Selection of sample from package or bulk lot for comparison with label; order to cease and desist; seizing, or stopping sale of, fertilizer or soil conditioner; conditions; filing action with court.**

Sec. 8511. (1) The director, by a duly authorized agent, may select from any package or bulk lot of commercial fertilizer or soil conditioner exposed for sale in this state a sample to be used for the purposes of an official analysis for comparison with the label affixed to the package or bulk lot on sale. The director may at any time order a person to cease and desist from manufacturing, storing, distributing, selling, or registering a product regulated by this part, or may seize or stop the sale of a fertilizer or soil conditioner that is misbranded or adulterated, fails to meet a label claim or guarantee, is being manufactured or distributed by an unlicensed person, or otherwise fails to comply with this part.

(2) An order shall be written and shall inform the manufacturer, storage operator, distributor, seller, or registrant of the grounds for issuance of the order. The person receiving the order shall immediately comply with the order. Failure to comply shall subject the person to the penalty imposed under this part.

(3) The director shall rescind the order immediately upon being satisfied by inspection of compliance with the order. The inspection shall be conducted as soon as possible at the verbal or written request of the responsible party. The rescinding order of the director may be verbal and the person may rely on the verbal rescinding order. However, a verbal order shall be followed by a written rescinding order.

(4) The director may issue and enforce a written order prohibiting the sale, use, or removal of a product regulated by this part to the owner or custodian of any product or product lot and requiring the product to be held by the owner or custodian at a designated place when the director finds that the product is being distributed in violation of this part. The order remains in effect until the director determines that the person is complying with the law or until the violation has been otherwise legally disposed of by written authority. The director shall release the product for sale, use, or removal upon compliance with this part and payment of all costs and expenses incurred in connection with the issuance and enforcement of the order.

(5) Any product or product lot not in compliance with this part is subject to seizure upon an action filed by the director in a court of competent jurisdiction in the county in which the product is located. If the court finds the product to be in violation of this part and orders the condemnation of the product, the product shall be disposed of in any manner consistent with the quality of the product and the laws of this state except that the disposition of the product shall not be ordered by the court without first providing the claimant an opportunity to petition the court for release of the product or for permission to process or relabel the product to bring it into compliance with this part.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995;—Am. 1998, Act 276, Imd. Eff. July 27, 1998.

**Popular name:** Act 451

**324.8512 Nitrates in groundwater exceeding certain limits associated with aquifer sensitivity or fertilizer use; educational materials provided to fertilizer users; authority of department director; eligibility of regional stewardship to receive certain grants; authorization to land-apply materials containing fertilizers at agronomic rates.**

Sec. 8512. (1) Upon confirming the presence of nitrate in groundwater in concentration exceeding 50% of the maximum contaminant level for nitrates in 20% of drinking water wells associated with an aquifer sensitivity region or fertilizer use activity, the director of the department shall provide educational materials to fertilizer users within that region and may do 1 or more of the following:

(a) Establish a regional stewardship team to assist in the coordination of local activities designed to prevent further contamination of groundwater and to identify all probable sources of nitrate.



(b) Conduct further monitoring to determine the concentration and spatial distribution of nitrates in the aquifer.

(c) Perform an evaluation of activities in the monitoring region to determine the sources of nitrate that may have contributed to the contamination.

(d) Implement a stewardship program in the aquifer sensitivity region pursuant to part 87.

(e) Assist the regional stewardship team in designing a regional plan to prevent further contamination of groundwater by fertilizer use activities, which plan must include an assessment of all probable sources of nitrates.

(f) Establish a program that provides incentives for users to increase nitrogen use efficiency.

(2) Upon approval of a regional plan by the director of the department, the regional stewardship team is eligible to receive grants from the freshwater protection fund established by part 87.

(3) The director of the department may, upon written request, authorize persons to land-apply materials containing fertilizers at agronomic rates. This authorization shall prescribe appropriate operational control activities to protect the application location and shall identify both the location of remediation and the location or locations where such a land application will take place.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

### **324.8513 Rules; bulk storage of fertilizers.**

Sec. 8513. The department may promulgate rules regarding the bulk storage of fertilizers.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Administrative rules:** R 285.641.1 et seq. and R 285.642.1 et seq. of the Michigan Administrative Code.

### **324.8514 Violation; liability; penalty.**

Sec. 8514. A person who violates this part is guilty of a misdemeanor. A person who violates this part is liable for all damages sustained by a purchaser of a product sold in violation of this part. In an enforcement action, a court, in addition to other penalties provided by law, may order restitution to a party injured by the purchase of a product sold in violation of this part.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

### **324.8515 Revocation or refusal of license or registration; grounds; hearing; exception for refusal to sell ammonium nitrate fertilizer.**

Sec. 8515. (1) The director of the department may revoke the license of a manufacturer or distributor or the registration of a fertilizer product or soil conditioner, or may refuse to license a manufacturer or distributor or to register a fertilizer product or soil conditioner, upon satisfactory evidence that the licensee has engaged in fraudulent or deceptive practices or has evaded or attempted to evade this part or the rules promulgated under this part.

(2) A license or registration shall not be revoked or refused until the licensee or applicant has been given the opportunity by the director of the department to appear for a hearing.

(3) The department shall not suspend or revoke the license of a distributor or manufacturer who refuses to sell ammonium nitrate fertilizer to a person who fails to comply with the request for information required under section 8518 or who refuses to sell ammonium nitrate fertilizer to a person who purchases that fertilizer out of season, in unusual amounts, or under a pattern or circumstances considered unusual, as described in section 8518.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995;—Am. 2005, Act 68, Imd. Eff. July 11, 2005.

**Popular name:** Act 451

### **324.8516 Enforcement; rules.**

Sec. 8516. The director of the department shall enforce this part and may promulgate rules.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

### **324.8517 Local ordinance, regulation, or resolution; preemption; enactment; enforcement; identification of unreasonable adverse effects; local public meeting; contract by director with local government; compliance with training and enforcement requirement.**

Sec. 8517. (1) Except as otherwise provided in this section, it is the express legislative intent that this part preempt any local ordinance, regulation, or resolution that purports to duplicate, extend, or revise in any manner the provisions of this part. Except as otherwise provided for in this section, a local unit of government shall not enact, maintain, or enforce an ordinance, regulation, or resolution that contradicts or conflicts in any manner with this part.

(2) If a local unit of government is under contract with the department to act as its agent or the local unit of government has received prior written authorization from the department, that local unit of government may enact an ordinance that is identical to this part and rules promulgated under this part, except as prohibited in subsection (6). The local unit of government's enforcement response for a violation of the ordinance that involves the manufacturing, storage, distribution, or sale of products regulated by this part is limited to issuing a cease and desist order in the manner prescribed in section 8511.

(3) A local unit of government may enact an ordinance prescribing standards different from those contained in this part and rules promulgated under this part and that regulates the manufacturing, storage, distribution, or sale of a product regulated by this part under either or both of the following circumstances:

(a) Unreasonable adverse effects on the environment or public health will exist within the local unit of government. The determination that unreasonable adverse effects on the environment or public health will exist shall take into consideration specific populations whose health may be adversely affected within that local unit of government.

(b) The local unit of government has determined that the manufacturing, storage, distribution, or sale of a product regulated by this part within that unit of government has resulted or will result in the violation of other existing state or federal laws.

(4) An ordinance enacted pursuant to subsections (2) and (3) shall not conflict with existing state laws or federal laws. An ordinance enacted pursuant to subsection (3) shall not be enforced by a local unit of government until approved by the commission of agriculture. The commission of agriculture shall provide a detailed explanation of the basis of the denial within 60 days.

(5) Upon identification of unreasonable adverse effects on the environment or public health by a local unit of government as evidenced by a resolution submitted to the department, the department shall hold a local public meeting within 60 days after the submission of the resolution to determine the nature and extent of unreasonable adverse effects on the environment or public health due to the manufacturing, storage, distribution, or sale of a product regulated by this part. Within 30 days after the local public meeting, the department shall issue a detailed opinion regarding the existence of unreasonable adverse effects on the environment or public health as identified by the resolution of the local unit of government.

(6) The director may contract with a local unit of government to act as its agent for the purpose of enforcing this part and the rules promulgated under this part. The department shall have sole authority to assess fees, register fertilizer or soil conditioner products, cancel or suspend registrations, and regulate and enforce all provisions of section 8512.

(7) For any ordinance enacted pursuant to this section, the local unit of government shall provide that persons enforcing the ordinance comply with the training and enforcement requirements as determined appropriate by the director.

**History:** Add. 1998, Act 276, Imd. Eff. July 27, 1998.

**Popular name:** Act 451

### **324.8518 Ammonium nitrate fertilizer; storage methods; information to be obtained by retailers; records; refusal of retailer to sell.**

Sec. 8518. (1) A retailer shall secure at all times ammonium nitrate fertilizer to provide reasonable protection against vandalism, theft, or unauthorized access. Secured storage includes, but is not limited to, the following methods:

- (a) Fencing.
- (b) Lighting.
- (c) Locks.

(2) Retailers shall obtain the following information regarding any sale of ammonium nitrate fertilizer:

- (a) Date of sale.
- (b) Quantity purchased.

(c) License number of the purchaser's valid state operator's license with the appropriate endorsement, if applicable, or other picture identification card number approved for purchaser identification by the department.

(d) The purchaser's name, current address, and telephone number.

(e) The agency relationship, if any, between the purchaser and the person picking up or accepting delivery

of the ammonium nitrate fertilizer.

(3) Records created pursuant to this section shall be maintained by the retailer for a minimum of 2 years on a form or using a format recommended by the department. Records shall be made available for inspection and audit upon request of the director of the department.

(4) Records generated by means of the tracking system established under subsection (2) are exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(5) Any retailer of ammonium nitrate fertilizer may refuse to sell to any person attempting to purchase ammonium nitrate fertilizer out of season, in unusual patterns or circumstances, or in unusual amounts as determined by the retailer.

**History:** Add. 2005, Act 68, Imd. Eff. July 11, 2005.

**Popular name:** Act 451